IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1885 OF 1994

Herdillia Unimers Ltd. & Anr. ..Petitioners

Vs.

Union of India & Ors. ..Respondents

Mr.P.A.Kabadi with Ms.F.J.Thakkar i/b.Doijode &
Associates for the Petitioners.
Ms.S.V.Bharucha with Mr.Y.R.Mishra for
Respondent No.1-Union of India.
Mr.R.J.Mane, A.G.P. for Respondent No.2 & 3 State.

CORAM :- DR.S.RADHAKRISHNAN &
SMT.V.K.TAHILRAMANI,JJ.
DATE : 27TH NOVEMBER, 2006

P.C.

1. Heard the learned Counsel for the Petitioners, the learned Counsel for Respondent No.1 and the learned A.G.P. for Respondent Nos.2 and 3. The learned Counsel for the Petitioners states that the Petitioner-Company's name has been changed from Herdilla Unimers Ltd. to Unimers India Ltd. In view thereof, the Petitioner-Company's name stands corrected as Unimers India Ltd.

2. The learned Counsel for the Petitioners and Respondent Nos.2 and 3 categorically state that the above matter is squarely covered by a Division Bench Judgment of this Court in the case of **Greaves Cotton & Company Ltd. & Another Vs. State of Maharashtra & Another, 2004(6) Bom.C.R.564** in favour of the Petitioners. In the instant case also, there is no Debenture Certificates issued in regard to convertible portion of the Partly Convertible Debentures by the

Petitioners, and thus the levy of additional tax by the State is unsustainable in law. Under these circumstances and in view of the aforesaid judgments, Rule is made absolute in terms of prayer clauses (a),(b) and (c) as far as prayer clause (c) is concerned, the interest shall be paid @10% p.a. instead of 18% p.a. However, there will be no order as to costs.

3. The State Government shall refund the excess stamp duty recovered from the Petitioners alongwith interest, in the name of Unimers India Ltd., within a period of 8 weeks from today, failing which the Respondent - State shall pay interest @ 18% p.a.

(DR.S.RADHAKRISHNAN,J.)

(SMT.V.K.TAHILRAMANI,J.)